



October 20, 2022

Via ECF

Honorable Yvonne Gonzalez Rogers
United States District Court
Northern District of California

***Re: In re: Social Media Adolescent Addiction/Personal Injury Products Liability
Litigation, No. 4:22-md-03047-YGR, MDL No. 3047***

Dear Judge Gonzalez Rogers:

Pursuant to the Court's Order Setting Initial Conference, I respectfully submit this application for appointment to the Plaintiffs' Steering Committee in the above-captioned matter. I am counsel for Plaintiff in case *D.D. individually and as next friend to minor child J.D. v. Meta Platforms, Inc. et al.*, No. 4:22-cv-06205-YGR. Below I address the criteria requested by the Court.

I am a Partner at the law firm of Weitz & Luxenberg, P.C. and am Co-Chair of the Environmental, Toxic Tort, and Consumer Protection unit. In twelve years of private practice, I have represented individuals injured by dangerous products in complex federal and state proceedings, class action lawsuits, and in multi-district litigation (MDL). Although each case has unique facts, I strive to remain aware that for many clients, the legal system is opaque and intimidating, and a lawyer must act as both legal advocate and counselor during what is often a difficult time.

I am currently a member of the Plaintiffs' Executive Committee in *In re Dicamba Herbicides Litig.*, MDL No. 2820, No. 1:18-md-02820-SNLJ (E.D. Mo.), before the Honorable Stephen N. Limbaugh, Jr. In this case, I was closely involved in developing the plaintiffs' liability narrative through company deposition discovery, Rule 30(b)(6) depositions, negotiation of electronic discovery protocols, and third-party discovery. I also served as a member of the plaintiffs' settlement team that ultimately negotiated a \$400 million settlement on behalf of farmers nationwide whose crops were damaged by allegedly defective dicamba herbicides. The *Dicamba* MDL has largely concluded, though settlement administration is ongoing. Judge Limbaugh may be contacted by telephone at (573) 331-8873.

I was recently appointed co-lead class counsel in *Baker v. Saint-Gobain Performance Plastics Corp.*, No. 1:16-cv-917 (N.D.N.Y.), before the Honorable Lawrence E. Kahn. In this case, I represent a class of current and former residents of Hoosick Falls, a village in upstate New York

whose drinking water was contaminated with perfluorooctanoic acid (PFOA), a per- or polyfluoroalkyl substance (PFAS) designated as a “likely carcinogen.” I have taken the lead in all facets of the litigation since its commencement in 2016, shepherding named plaintiffs through discovery, spearheading document and deposition discovery, working with experts, and briefing numerous motions, as well as a successful appeal to the Second Circuit. *See Baker v. Saint-Gobain Performance Plastics Corp.*, 959 F.3d 70 (2d Cir. 2020). In February 2022, the Court approved a partial class settlement worth \$65.25 million, which provided payments for diminution in property value and nuisance, and funded a ten-year medical monitoring program. The litigation is ongoing against one remaining defendant. Judge Kahn may be contacted by telephone at (518) 257-1833. The magistrate judge overseeing the case, the Honorable Daniel J. Stewart, may also be contacted by telephone at (518) 257-1843.

In July 2018, I was appointed co-lead counsel in *Burdick v. Tonoga, Inc. (d/b/a Taconic)*, No. 00253835 (N.Y. Rensselaer Cnty.), before Justice Patrick McGrath, in which I represented a class of current and former residents of Petersburg, New York whose drinking water and properties were contaminated with toxic PFAS. I led all phases of this litigation, from the initial pleadings through summary judgment and pretrial proceedings. After the trial court granted class certification, I successfully defended the class on appeal, obtaining a unanimous decision by the New York State Appellate Division. *See Burdick v. Tonoga, Inc.*, 179 A.D.3d 53 (N.Y. App. Div. 2019). The Appellate Division’s decision was the first upholding certification of a medical monitoring class in New York State history. In March 2022, the court granted final approval to a class settlement worth \$23.5 million. Justice McGrath may be contacted by telephone at (518) 285-5025.

In addition to the leadership positions set forth above, I have worked closely with plaintiffs’ leadership in several complex MDL proceedings. In July 2017, I served as first chair trial counsel in *Ward v. Gen. Motors*, No. 14-cv-8317, a bellwether tried to jury verdict in *In re Gen. Motors LLC Ignition Switch Litig.*, No. 14-MD-2453 (JMF) (S.D.N.Y.). Prior to trial, I worked with plaintiffs’ leadership to develop all aspects of the case. The Honorable Jesse M. Furman oversaw the MDL and presided over the *Ward* trial. Judge Furman may be contacted by telephone at (212) 805-0282.

In *In re Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on Apr. 20, 2010*, No. 10-md-2179 (E.D. La.), I was second chair to Plaintiffs’ Steering Committee member Robin Greenwald, working on all aspects of the litigation, including trial and appeals. Since 2015 I have worked closely with Ms. Greenwald on *In re Roundup Prods. Liab. Litig.*, No. 16-md-02741-VC (N.D. Cal.), before the Honorable Vince Chhabria. Ms. Greenwald and Weitz & Luxenberg serve as co-lead counsel in the *Roundup* MDL proceeding. I have also worked closely on the firm’s *Roundup* litigation pending in the Missouri state courts, where I have been a member of multiple trial teams, defending and deposing expert witnesses, briefing and arguing summary judgment and pretrial motions, and preparing witnesses for trial.

Prior to beginning my career in private practice, I was a law clerk for the Honorable D. Brooks Smith on the Third Circuit Court of Appeals, as well as the Honorable Christopher C. Conner on the United States District Court for the Middle District of Pennsylvania.

I am aware that this Court places the utmost importance on attorney professionalism, courtesy, and civility, and I believe that throughout my career—even in particularly hard-fought litigation—I have made it a priority to embody these values. Since 2020, I have been a member of the New York City Bar Association’s Professional Responsibility Committee. In 2022, I co-hosted a bench and bar discussion on professional civility as part of the American Bar Association Pharmaceutical, Medical Device, and Bioscience Committee’s Future of Trial Practice continuing

education program. If appointed a member of the Plaintiffs' Steering Committee, I will litigate this matter vigorously but also in a manner that represents professionalism and civility among officers of the Court. I am committed to working cooperatively with counsel for the defendants and other plaintiffs' counsel, many of whom I have worked with cooperatively and productively in past litigations.

I am willing and able immediately to commit to this time-consuming litigation and have also enlisted the assistance of talented lawyers within my firm to focus on this case. Devin Bolton, for example, is a senior associate who currently serves on the plaintiffs' discovery and trial teams for the *Southern California Gas Leak Cases*, Judicial Council Coordinating Proceeding ("JCCP") No. 4861, pending before the Honorable Carolyn Kuhl in Superior Court of Los Angeles County. Ms. Bolton has spent the past six years managing the litigation's document and deposition repository, overseeing review of 1.9 million documents, taking and defending company and third-party depositions, and litigating discovery motions. One particular motion that Ms. Bolton oversaw regarding privilege material resulted in \$5.7 million in discovery sanctions and forced defendants to produce 150,000 documents previously withheld from plaintiffs.

My law firm is also committed to prosecuting this litigation and has access to sufficient resources to ensure the matter is well-funded and well-staffed. Weitz & Luxenberg, PC is an AV-rated firm with its headquarters in New York and offices in Los Angeles, Detroit, and Cherry Hill, New Jersey. The firm has approximately 100 attorneys and 250 support staff, several of whom will be dedicated to this case. For 35 years, Weitz & Luxenberg has represented individuals and classes of plaintiffs nationwide to obtain redress for corporate malfeasance. We have been part of several of the most complex MDL proceedings and have the human and financial resources to meet the challenges of this MDL. If the demands require it, the firm will not hesitate to shift resources or hire additional staff either to bring the case to a successful resolution or prepare for trial.

In addition to the information set forth above, the Court has requested applicants to include any other considerations that may qualify them for a leadership appointment. I grew up in the rural Midwest and was the first member of my family to attend law school. My family did not understand how to confront the adversarial court system, and we were fortunate when a lawyer for the teacher's union intervened to assist my father, a public school teacher, in a moment of legal need. I carry this experience with me when I advocate for my clients, especially those who, like many in this litigation, do not understand the court system or the adversarial process, and, even more critical here, are vulnerable youth. My clients are people with families and friends and needs. I believe it is important for lawyers and advocates in mass tort litigation to retain this perspective to ensure that the system works for all participants.

In sum, I am dedicated to serving on the Plaintiffs' Steering Committee in this matter. In addition, I attach as Exhibit A the names of other counsel who have filed cases in the MDL that support my appointment as a member of the Plaintiffs' Steering Committee. I appreciate the Court's consideration in this matter.

Respectfully submitted,

/s/ James J. Bilborrow

James Bilborrow

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EXPERIENCE

Weitz & Luxenberg, P.C., New York, NY

Partner, Co-Chair, Environmental, Toxic Tort, Consumer Protection Unit (2021-Present)

Representative Cases:

- *Baker v. Saint-Gobain Performance Plastics Corp.*, No. 1:16-cv-917 (N.D.N.Y.): Appointed co-lead class counsel in litigation class against E.I. DuPont de Nemours and Company; appointed co-lead class settlement counsel for \$65.25 million partial settlement diminution in property value, nuisance, and medical monitoring settlement class; partial settlement class approved by court February 2022;
- *Burdick v. Tonoga, Inc. (d/b/a Taconic)*, No. 00253835 (N.Y. Rensselaer County): Appointed co-lead class counsel; class certification decision affirmed by N.Y. Appellate Division; summary judgment decision affirmed by N.Y. Appellate Division; trial court approved class settlement for \$23.5 million in March 2022;
- *Fero v. Excellus Health Plan, Inc.*, No. 6:15-cv-06569 EAW (W.D.N.Y.): Appointed co-lead class counsel in Rule 23(b)(2) class in health care provider data breach; class settlement approved in April 2022 for injunctive relief plus \$4.35 million in fees and expenses;
- *In re Dicamba Herbicides Litigation*, No. 1:18-md-02820-SNLJ, MDL No. 2820 (E.D. Mo.): Appointed to Plaintiffs' Executive Committee; global settlement reached in June 2020 for \$400 million.

Seeger Weiss, LLP, Ridgefield Park, NJ

Partner, Litigation (April 2021 – December 2021)

Weitz & Luxenberg, P.C., New York, NY

Associate, Environmental, Toxic Tort, Consumer Protection Unit (2011 - 2021)

D. Brooks Smith, U.S. Court of Appeals for the Third Circuit, Duncansville, PA

Law Clerk (2010-2011)

Drafted precedential and non-precedential opinions of the Court; summarized and evaluated briefing; prepared cases for oral argument.

Christopher C. Conner, U.S. District Court for the Middle District of Pennsylvania, Harrisburg, PA

Law Clerk (2008-2010)

Drafted dismissal and summary judgment opinions, case management orders, and criminal sentencing colloquies; oversaw case management of approximately forty active cases at once; supervised law school interns.

Cravath, Swaine & Moore LLP, New York, NY

Summer Associate, Litigation Department (Summer 2007)

New York State Office of the Attorney General, New York, NY

Legal Intern, Criminal Prosecutions Bureau (Summer 2006)

EDUCATION

William & Mary School of Law, Williamsburg, Virginia; Juris Doctor, May 2008

G.P.A.: 3.8

Class Rank: 2 / 212

Activities: Senior Articles Editor, ***William and Mary Law Review***
National Trial Team
Virginia Bar Association Community Servant (2005-07)

Honors: Order of the Coif (top 10%)

Best Student Note, 2007-08

Recipient of James W. Perkins Memorial Trust award, 2006-07; 2007-08

University of Chicago, Chicago, Illinois

Bachelor of Arts *with Honors* in Political Science; Bachelor of Arts in Philosophy, June 2003

G.P.A.: 3.5

Honors: Dean's List (1999-2003)

Honors Thesis: "*From a Slap on the Wrist to a Noose on the Neck: The Rise of Punitive Transfer Policy in the Illinois Juvenile Correction System*"

PUBLICATIONS

Student Note, *Sentencing Acquitted Conduct to the Post-Booker Dustbin*, 49 WM. & MARY L. REV. 289 (2007).

ELECTED OFFICE

Kings County Committee, Brooklyn, New York

Kings County Committee Member (2016 - present)

Kings County Judicial Delegate (2022 – present)

LEGAL COMMUNITY

Complex Litigation E-Discovery Forum (CLEF), Minneapolis, Minnesota

Board Member (2020 - present)

Direct plaintiffs' e-discovery group in continuing education projects, publications, and presentation of plaintiff e-discovery viewpoints; organize annual e-discovery conference

COMMUNITY SERVICE

TALKS Juvenile Mentoring Network, Chicago, Illinois

Volunteer Juvenile Mentor (November 2003 – March 2005)

Met weekly with and counseled two convicted juveniles; discussed anger management, peer pressure, and positive learning concepts.